

Appl. No. 09/259,770

Paper dated June 20, 2003

Reply to Office Action dated March 20, 2003

REMARKS

Reconsideration of the above-identified application in view of the following remarks is respectfully requested. Claims 90-121 were pending. Claims 97-111 were previously allowed. Claims 90-96 and 112-121 were rejected under 35 U.S.C. § 101 because "the claims must recite the claimed method as being computer implemented clearly identifying appropriate method steps as such." Claims 112-115, 118-119 and 121 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Friend in view of Bengen.

On June 17, 2003, the Examiner granted the Applicants' counsel the courtesy of a telephone interview to discuss whether the Section 101 rejection could be properly addressed by amendments to claims 90 and 120. By these amendments, the "generating" step of claims 90 and 120 is amended to specify that it occurs in a computer (*i.e.*, generating in a computer a probabilistic distribution of investment outcomes for the financial portfolio) Applicants appreciate the provisional indication of allowability and request reconsideration and withdrawal of the Section 101 rejection of claims 90-96 and 120.

In addition, claims 112-119 and 121 are cancelled by this amendment without prejudice or disclaimer in order to expedite prosecution of the allowed and allowable claims. Accordingly, the Section 103 rejection of claims 112-115, 118-119 and 121 now is moot. Applicants expressly reserve the right to file continuation applications directed to this subject matter.

Further, claims 96, 103 and 110 are amended to recite "International Mid Cap stocks" within the Markush group of possible asset classes. Support for this amendment is found throughout the application, and in particular at Tables 1 and 3 and the associated text of pages

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10-13. It is respectfully asserted that entry of these amendments would not add new matter to this application.

Finally, new claims 122-136 are added to describe further aspects of Applicants' invention. Support for these claims is found throughout the application.

These new claims are respectfully asserted to be in condition for allowance for at least the same reasons as the previously pending claims. In particular, new claims 122-134 depend, indirectly or directly, from the previously pending claims, which were either allowed or found to be allowable. Similarly, independent claim 135 recites, *inter alia*, "a withdrawal amount having a fixed dollar withdrawal amount and a fixed percentage withdrawal amount," which claim language was previously indicated to be allowable. See 3/20/03 Office Action at pp. 8-9. Accordingly, these new claims are respectfully asserted to be in condition for allowance. Should there be any questions concerning the patentability of these new claims, the Examiner is urged to contact the undersigned via telephone in an attempt to address such questions as expeditiously as possible.

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In view of the above amendments, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 13-4500, ORDER NO. 3635-4000.

Respectfully submitted,
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Dated: June 20, 2003

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